

**UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK**

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	:	
PLUM BUILDERS, INC. D/B/A PLUM BUILDERS	:	
	:	
Plaintiff,	:	Civil Action No.:
	:	
v.	:	15 cv 1427 (JS) (AKT)
	:	
SOTHEBY'S INTERNATIONAL REALTY, INC.	:	
and	:	
	:	
BEATE V. MOORE D/B/A/ BRIDGEHAMPTON	:	
BROKERAGE	:	
	:	
Defendants	:	
-----X		

ANSWER TO COUNTERCLAIMS

The Counterclaim-Defendant Plum Builders, Inc. responds to the counterclaims filed in this matter as follows, with the paragraphs below numbered to correspond to the numbered paragraphs of the counterclaims

Parties

1. Counterclaim-Defendant Plum Builders, Inc. admits Sotheby's International Realty, Inc. is a corporation of the State of Michigan authorised to do business in the State of New York; and is without information to either or deny the remaining allegations of this paragraph and, therefore, denies same.

2. Admitted.

3. Admitted.

Jurisdiction and Venue

4. Admitted.

5. Admitted.

Facts

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Denied.

11. Denied.

12. Denied.

13. Counterclaim-Defendant Plum Builders, Inc. admits the comments posted on social media, but denies they were derogatory.

14. Denied.

15. Denied.

**FIRST CLAIM FOR RELIEF
FOR DECLARATORY JUDGMENT THAT THE
MODERN BARN TRADEMARK LACKS SECONDARY MEANING**

16. Counterclaim-Defendant Plum Builders, Inc. responds in the same manner it responded to the preceding paragraphs.

17. Counterclaim-Defendant Plum Builders, Inc. has insufficient knowledge to

either admit or deny that an actual controversy exists between the parties, and therefore denies same, and admits the remaining allegations of this paragraph.

18. Counterclaim-Defendant Plum Builders, Inc. admits the request of Counterclaim-Plaintiffs; but denies any validity of such request.

19. Denied.

**SECOND CLAIM FOR RELIEF
FOR DECLARATORY JUDGMENT OF TRADEMARK NONINFRINGEMENT**

20. Counterclaim-Defendant Plum Builders, Inc. responds in the same manner it responded to the preceding paragraphs.

21. Counterclaim-Defendant Plum Builders, Inc. has insufficient knowledge to either admit or deny that an actual controversy exists between the parties, and therefore denies same, and admits the remaining allegations of this paragraph.

22. Counterclaim-Defendant Plum Builders, Inc. admits the request of Counterclaim-Plaintiffs; but denies any validity of such request.

23. Denied.

**THIRD CLAIM FOR RELIEF
CANCELLATION OF FEDERAL TRADEMARK REGISTRATIONS**

24. Counterclaim-Defendant Plum Builders, Inc. responds in the same manner it responded to the preceding paragraphs.

25. Denied.

26. Denied.

AFFIRMATIVE DEFENSE

27. The counterclaims each fail to state claims upon which relief may be granted.

Wherefore, Counterclaim-Defendant Plum Builders, Inc. requests

A. the counterclaims be dismissed with prejudice; and

B. Counterclaim-Defendant Plum Builders, Inc. receive its full costs and attorney fees in connection with the defense of the counterclaims; and

C. Such other relief as the Court deems just and proper.

May 13, 2015
New York, New York

/s/ Gerard F. Dunne
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